



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/336,103	06/18/1999	KAREN M. DOWNS	960296.95912	7263

26710 7590 08/12/2002

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

EXAMINER

WILSON, MICHAEL C

ART UNIT	PAPER NUMBER
----------	--------------

1632

DATE MAILED: 08/12/2002

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/336,103

Applicant(s)

Downs et al.

Examiner

Michael C. Wilson

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Aug 2, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Mar 25, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The proposed change in dependency would require a new 112/2nd because "test compound" lacks antecedent basis in claim 28.

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see attached

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 27 and 28

Claim(s) withdrawn from consideration: 1-13, 15, 16, 18, and 29


8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other:

MICHAEL C. WILSON
PRIMARY EXAMINER
ART UNIT 1632

Art Unit: 1632

Applicants discussion of the difference between the 102 reference, Downs et al., and the teachings in the specification are noted. However, the claims do not differ from the teachings of Downs et al. for reasons of record. Applicants argue Downs does not teach "observing the vascularization..." and "alteration in the vascularization of the allantoic tissue..." (pg 6 of arguments). Applicants argument is not persuasive. Pg 5 of applicants arguments states one could conclude from Downs that while blood vessels were introduced into the allantois, their origin was unclear. Therefore, Downs taught blood vessels were present in the allantois and were observed. Secondly, the claim does not require vascularization occurs or alteration of the vascularization of the allantois; the claim merely requires observing whether it does or does not occur as taught by Downs.

Applicants argue Downs did not teach the allantois vascularized on its own. Applicants argument is not persuasive because the claims do not require the allantois vascularized on its own. Applicants argue Downs did not teach where the blood vessels of the allantois originated. Applicants argument is not persuasive because the claims do not require the blood vessels of the allantois have a particular origin; the claims merely require observing the vascularization of the allantois. Applicants argue Downs did not teach when allantoic vascularization begins. Applicants argument is not persuasive because the claims do not require the vascularization of the allantois begins at a certain time. Applicants argue the chorion is not required for allantoic vascularization. Applicants argument is not persuasive because the claims do not require the absence of the chorion.


MICHAEL C. WILSON
PATENT EXAMINER